

**PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA  
COMMISSION DIRECTIVE**

ADMINISTRATIVE MATTER	<input type="checkbox"/>	DATE	<u><b>July 03, 2018</b></u>
MOTOR CARRIER MATTER	<input type="checkbox"/>	DOCKET NO.	<u><b>2017-207-E, 2017-305-E, 2017-370-E</b></u>
UTILITIES MATTER	<input checked="" type="checkbox"/>	ORDER NO.	<u><b>2018-461</b></u>

**THIS DIRECTIVE SHALL SERVE AS THE COMMISSION'S ORDER ON THIS ISSUE.**

**SUBJECT:**

[DOCKET NO. 2017-207-E](#) - Friends of the Earth and Sierra Club, Complainant/Petitioner v. South Carolina Electric & Gas Company, Defendant/Respondent

[DOCKET NO. 2017-305-E](#) - Request of the Office of Regulatory Staff for Rate Relief to South Carolina Electric & Gas Company's Rates Pursuant to S.C. Code Ann. § 58-27-920 - Staff Presents for Commission Consideration the Petition to Intervene, Out of Time, Filed on Behalf of Southern Current LLC

[DOCKET NO. 2017-370-E](#) - Joint Application and Petition of South Carolina Electric & Gas Company and Dominion Energy, Incorporated for Review and Approval of a Proposed Business Combination between SCANA Corporation and Dominion Energy, Incorporated, as May Be Required, and for a Prudency Determination Regarding the Abandonment of the V.C. Summer Units 2 & 3 Project and Associated Customer Benefits and Cost Recovery Plans

Staff Presents for Commission Consideration Friends of the Earth and Sierra Club's Motion to Overrule or Clarify the Order of the Hearing Officer on Motions to Compel Discovery.

**COMMISSION ACTION:**

Friends of the Earth/Sierra Club (FoE/SC) move to overrule or clarify Hearing Officer Order No. 2018-74-H. They argue that the Order "improperly imposed an unwarranted and overbroad 'gag' or protective order, effectively barring . . . access to all further relevant and discoverable evidence." Mr. Chairman, the plain language of the Directive belies that claim. No less than six times, the Hearing Officer's Directive makes clear that the protective order would only apply to proprietary or confidential material. Moreover, the Directive in no way makes a finding that all materials provided in response to FoE/SC's discovery requests are in fact proprietary or confidential. The procedure outlined in the Directive provides FoE/SC with responses to its discovery in a timely manner, thus allowing them to prepare their case for presentation to the Commission. The procedure in the Directive also allows FoE/SC to question the designation of confidentiality of any materials by identifying those specific discovery materials to the Hearing Officer. At that point, SCE&G would bear the burden of proving to the satisfaction of the Hearing Officer that those materials are appropriately deemed as proprietary or confidential. If the Company fails to meet that burden, the Hearing Officer would rule that FoE/SC would be free to disclose the materials publicly.

In summary, Mr. Chairman, this process is not a "gag" order; it is a balancing of interests that simply expedites provision of discovery responses to FoE/SC so that they can make their case to the Commission.

With regard to the Site Visit question addressed by the Motion, it appears that the Hearing Officer's ruling was based solely upon applicable law. Pursuant to Rule 34 (b) of the South Carolina Rules of Civil Procedure, "the request shall set forth the items to be inspected either by individual item or by category and describe each item and category with reasonable particularity." As determined by the Hearing

Officer, the request by Friends of the Earth and Sierra Club lacks any of this required specific information. I agree with the Hearing Officer that FoE/SC has not met their burden under the law, on that point. If SCE&G agrees to a site visit as discussed, such a visit may occur.

For all these reasons, I believe that the Hearing Officer has correctly interpreted the law in this case as to these discovery issues. Accordingly, I move that we grant clarification as stated above. Finally, I would move that we once again encourage the parties in these matters to continue discussions toward resolution of discovery matters.

PRESIDING: Randall

SESSION: Special

TIME: 3:00 p.m.

	MOTION	YES	NO	OTHER
ELAM	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
ERVIN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
HAMILTON	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
HOWARD	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
RANDALL	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
WHITFIELD	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
WILLIAMS	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>Absent</u> Military Leave

(SEAL)

RECORDED BY: D. Easterling

